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Intellectual Property Causes
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1731

Attorney Docket No. P20358

In re application of : Roland MAYER et al.

Serial No. : 09/775,628

Group Art Unit: 1731

Filed : February 5, 2001

Examiner: M. Halpern

For : ELASTIC TRANSFER BELT

THE COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Sir:

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Transmitted herewith is an election with traverse in the above-captioned application.

- ☐ Small Entity Status of this application under 37 C.F.R. 1.9 and 1.27 has been established by a previously filed statement.
- ☐ A verified statement to establish small entity status under 37 C.F.R. 1.9 and 1.27 is enclosed.
- ☐ A Request for Extension of Time.
- ☐ No additional fee is required.

The fee has been calculated as shown below:

Claims After Amendment	No. Claims Previously Paid For	Present Extra	Small Entity		Other Than A Small Entity	
			Rate	Fee	Rate	Fee
Total Claims: 31	31*	0	x 9=	\$	x 18=	\$0.00
Indep. Claims: 2	3**	0	x 42=	\$	x 84=	\$0.00
Multiple Dependent Claims Presented			+140=	\$	+280=	\$0.00
Extension Fees for Month				\$		\$0.00
Total:				\$	Total:	\$0.00

*If less than 20, write 20

**If less than 3, write 3

☐ Please charge my Deposit Account No. 19-0089 in the amount of \$_____.

☒ A Check in the amount of \$_____ to cover the *filing/extension* fee is included.

☒ The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 19-0089.

☒ Any additional filing fees required under 37 C.F.R. 1.16.

☒ Any patent application processing fees under 37 C.F.R. 1.17, including any required extension of time fees in any concurrent or future reply requiring a petition for extension of time for its timely submission (37 CFR 1.136) (a)(3)

Neil F. Greenblum
Reg. No. 28,394

3583



#7/BM
6-18-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Roland MAYER et al.

Group Art Unit: 1731

Appln. No. : 09/775,628

Examiner: M. Halpern

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ELECTION WITH TRAVERSE

Commissioner of Patents and Trademarks
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Sir:

In response to the Examiner's restriction requirement of May 23, 2002, the time set for response being one month from the mailing date from the U.S. Patent and Trademark Office, i.e., June 23, 2002, Applicants hereby elect the invention of Group I, including claims 1 - 20. The above election is made with traverse for the reasons set herein below:

In the Official Action of May 23, 2002, the Examiner indicated that all claims (1 - 31) were subject to restriction under 35 U.S.C. § 121. The Examiner restricted the claimed invention into Group I, including claims 1-20, drawn to an apparatus for guiding a fibrous web, classified in class 162, subclass 306; and claims 21-31, drawn to a process for guiding a fibrous web, classified in class 162, subclass 202.

The Examiner asserted that the inventions were related as process and apparatus for its practice, and that the inventions are distinct from each other under M.P.E.P. § 806.05(e)

because the "apparatus can be used to practice another and materially different process, for example, tobacco sheet manufacturing."

Applicants respectfully submit that the Examiner has omitted one of the two criteria for a proper restriction requirement now established by the U.S. Patent and Trademark Office policy. That is, as set forth in M.P.E.P. § 803, "an appropriate explanation" must be advanced by the Examiner as to the existence of a "serious burden" if the restriction requirement were not required.

While the Examiner has alleged a possible distinction between the two identified groups of invention, the Examiner has not shown that a concurrent examination of these groups would present a "serious burden" on the Examiner. In fact, the Examiner has acknowledged that both groups would be classified in the same class (class 162), and has provided no appropriate statement that the search areas required to examine the invention of group I would not overlap into the search areas for examining the invention of group II, and vice versa. Thus, Applicants respectfully submit that the search for the combination of features recited in the claims of the above-noted groups, if not totally co-extensive, would appear to have a very substantial degree of overlap.

Because the search for each group of invention is substantially the same, Applicants submit that no undue or serious burden would be presented in concurrently examining Groups I and II. Thus, for the above-noted reasons, and consistent with the office policy set

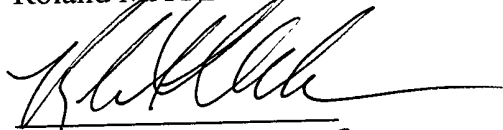
P20358.A06

forth above in M.P.E.P. § 803, Applicants respectfully request that the Examiner reconsider and withdraw the restriction requirement in this application.

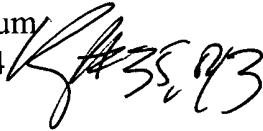
For all of the above reasons, the Examiner's restriction is believed to be improper. Nevertheless, Applicants have elected, with traverse, the invention defined by Group I, in the event that the Examiner chooses not to reconsider and withdraw the restriction requirement.

Should the Examiner have any questions or comments, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,
Roland MAYER et al.



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June 11, 2002
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